
STATUTORY INSTRUMENTS

2013 No. 1781

HIGHWAYS, ENGLAND

**The Traffic Management (Derby City
Council) Permit Scheme Order 2013**

Made - - - - *16th July 2013*

Coming into force - - *1st October 2013*

The Secretary of State for Transport having approved the Derby City Council Permit Scheme under section 34(2) of the Traffic Management Act 2004⁽¹⁾ makes this Order in exercise of the powers conferred by sections 34(4) and (5) and 39(2) of that Act.

Citation and commencement

1. This Order may be cited as the Traffic Management (Derby City Council) Permit Scheme Order 2013 and comes into force on 1st October 2013.

Interpretation

2. In this Order—

“the Derby City Council Permit Scheme ” means the permit scheme set out in the Schedule in terms commonly known as the “Derby Permit Scheme” which was prepared and submitted to the Secretary of State by Derby City Council and has been approved by the Secretary of State; and

“specified streets” has the meaning given by regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007⁽²⁾.

Commencement of Permit Scheme

3. The Derby City Council Permit Scheme comes into effect on 1st October 2013.

Application of Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007

4. Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 shall apply to the specified streets within the Derby City Council Permit Scheme.

(1) >2004. c.18.
(2) S.I. 2007/3372.

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Signed by authority of the Secretary of State for Transport

16th July 2013

Norman Baker
Parliamentary Under Secretary of State
Department for Transport

SCHEDULE

Article 2

THE DERBY CITY COUNCIL PERMIT SCHEME

CONTENTS

Section	Title	Page
1.0	Introduction	2
2.0	Streets	3
3.0	Specified Activities	3
4.0	Permit Types	6
5.0	Permit Categories	7
6.0	Permit Application – Information Required	9
7.0	Permit Conditions	10
8.0	Permit Applications	12
9.0	Issuing of Permits	14
10.0	Review, Variation and Revocation of Permit and Permit Conditions	14
11.0	Cancellation of a Permit	16
12.0	Fees	16
13.0	Sanctions	18
14.0	Registers	18
15.0	Monitoring	18
16.0	Inspection of Activities	19
17.0	Transitional Arrangements	20

Appendix A – Policy Statement: Review, Variation &
Revocation of Permits

Appendix B – Policy Statement: Sanctions

1.0 Introduction

1.1 Relationship to New Roads and Street Works Act

Permit schemes require the statutory undertaker to apply and obtain a Permit, rather than serving a NRSWA notice. The activities of the street Authority and its partners are treated in the same way as statutory undertaker works.

1.2 The Permit Scheme

This Permit Scheme known as Derby City Council Permit Scheme for Road Works and Street Works; hereinafter referred to as The Permit Scheme has been prepared under the framework provided by the Traffic Management Act (Part 3) and the Traffic Management Permit Schemes (England) Regulations 2007, (referred to as the Regulations) and with regard to the relevant guidance issued by the Secretary of State. All current NRSWA and Traffic Management Act legislation, regulation and codes of practice (including future amendments) apply to the Permit Scheme.

The Permit Scheme will replace the NRSWA notification system for all Traffic Sensitive streets in Derby. The streets within the Permit Scheme (along with any special designation) will be clearly identified on the National Street Gazetteer Associated Street Data files. The National Street Gazetteer for Derby is established and maintained at level 3. The Authority is committed to maintaining the gazetteer data to level 3.

1.3 It is expected that the Permit Scheme will embrace activities in addition to Road works and Street Works (as defined in Part 3 of NRSWA) for example by the use of Optional Permits for 'Events' that are facilitated by occupying or requiring space or special provisions on the highway. It is also expected that it may be extended to other activities as a result of regulatory changes in the future.

1.4 The Permit Authority

The Permit Scheme is operated by Derby City Council as the local Highway Authority for the City of Derby, hereinafter referred to as the Permit Authority.

1.5 Activities

The terms 'specified activities' and 'activities' are used in the document as the Permit Scheme may cover more than street works and road works.

1.6 Equivalent Definitions

The Permit Scheme will operate along with the NRSWA notice system. The same or equivalent definitions and requirements will be used as in the NRSWA notice system:

- Registerable activities / works
- Categories of activities / works
- Street gazetteers and the unique referencing
- Reinstatement categories
- Street designations (Protected Streets, Special Engineering Difficulties, Traffic Sensitive Streets)

When agreed variations are made the promoter will be required to submit a variation to the Permit to revise the dates. The relevant charges will be applied to Permit variations unless the Permit Authority has required the early start and variation. In these circumstances no fee will be charged for the variation. (Section 10.0)

- 3.10** It is an offence for a statutory undertaker or a person contracted to act on his behalf to undertake specified works in a specified street without a Permit, except to the extent that the Permit Scheme provides that this requirement does not apply. Where it is believed that such an offence has been or is being committed the Permit Authority may impose a fixed penalty notice and require the party concerned to cease works and return the street to full use.
- 3.11** Each application for a Permit must include the information set out in section 6.
- 3.12** Optional Permits will be available to promoters or organizers carrying out the following activities
- S50 Licences
 - When materials, not related to street works or works for road purposes, are being placed on the highway
 - Special events requiring the use of the highway
 - Maintenance and inspection of fire hydrants carried out by fire service vehicles, where the activity is undertaken outside of traffic sensitive times.
 - Where neighbouring Highway Authorities (including the Highways Agency) require the use of roads within the Permit Scheme for the purpose of erecting temporary signage or for temporary diversions off their own road network.

The purpose of Optional Permits is to include a wider range of activities into the coordination process and improve the management of the specified road network.

These activities may result in disruption to traffic flow or may require road space that utility companies need to use. The use of Optional Permits, which will be publicised and promoted by the Permit Authority, will extend the principle of parity to a wider range of activities.

A fee will not be charged for Optional Permits, but conditions may be attached to approvals. In such circumstances the relevant parts of the scheme will apply to conditions and variations, with details issued on approval of the Optional Permit. The use of Optional Permits will encourage promoters and organizers to provide improved information and allow early engagement in the planning stages.

Works carried out under S50 will be subject to FPNs under the NRSWA regulations.

The use of Optional Permits will be monitored and breaches will be logged and reported.

- 3.13** Optional Permits will be issued on the understanding that if circumstances change so that the activity becomes 'Registerable' then the activity must

cease, the highway fully restored to use and the process started to obtain the appropriate Permit.

4.0 Permit Types

4.1 The Permit Scheme includes the following:

- Provisional Advance Authorisation (PAA)
- Permits
- Optional Permits (as described in 3.12)

4.2 **Provisional Advance Authorisations** will improve the coordination and works planning processes and provide improved opportunities to optimise the use of road space for specified (and non-specified) activities. It provides the Permit Authority with a better opportunity to examine specified activities and determine the most appropriate conditions to include when an application for a Permit is made at a later date. Provisional Advanced Applications are only required in relation to Major activities.

4.3 Applications for Major activities will not be accepted by the Permit Authority unless a Provisional Advance Authorisation has been previously submitted.

4.4 Provisional Advance Authorisations must be applied for at least 3 months in advance of proposed Major activities starting, unless the Permit Authority agrees to a shorter period.

4.5 A Provisional Advance Authorisation must be served for each street on which specified activities, classed as major, are being proposed.

4.6 A fee will be charged for each Provisional Advance Authorisation in addition to any subsequent Permit fee. The Permit Authority has the discretion to reduce the charge where Provisional Advance Authorisations are submitted for schemes that involve multiple neighbouring streets as part of a planned and coordinated programmes of works (Section 12).

4.7 A Provisional Advance Authorisation must include the following information.

- Location of activity
- Proposed start and end dates
- An outline description
- Times of working, including hours of the day and any weekend provisions
- The road space occupancy
- Method of working
- Traffic management

It is understood that the information may be provisional at this early stage, for example start and end dates are particularly likely to change and there may need to be discussion and agreement of alternative traffic management methods.

4.8 The granting of a Provision Advance Authorisation will not prevent the Permit Authority from subsequently refusing to grant a Permit for the specified activity proposed in the Provisional Advance Authorisation.

4.9 A copy of the Provisional Advance Authorisation will be provided by the work promoter upon request to any person identified as having apparatus in the

street to which the Provisional Advance Authorisation relates.

The Permit Authority, as the organization responsible for the register, will provide information relating to S50 Licences and assets maintained by the Highway Authority.

The Permit Authority will carry out tasks compliant with the duty to coordinate works. If an owner of apparatus contacts the Permit Authority to request information, additional to that circulated from the register, then the request will be forwarded to the promoter.

- 4.10** Permits will be the final Permit for 'Registerable' activities. The application period for Permits will depend on the type of activity proposed.

- 4.11** A copy of the Permit application will be provided by the work promoter upon request to any person having apparatus in the street to which the Permit application relates.

The Permit Authority, as the organization responsible for the register, will provide information relating to S50 Licences and assets maintained by the Highway Authority.

If an owner of apparatus contacts the Permit Authority to request information, additional to that circulated from the register, then the request will be forwarded to the promoter.

- 4.12** **Optional Permits** relate to non-specified activities. See Section 3.12. The application process is intended to be the same as for Provisional Advance Authorisations and Permits relating to streets within the scope of the scheme. A fee will not be charged for Optional Permits.

- 4.13** Details of the information required for a Permit application (including PAA and Optional Permits) can be found in Section 6.0.

5.0 **Permit Categories**

- 5.1** The Permit categories included in the scheme are:

- Permit for Major Activities
- Permit for Standard Activities
- Permit for Minor Activities
- Permit for Immediate Activities

5.2 **Major Activities**

Those activities that:

- Have been identified in an organisation's annual operating programme, or if not identified in that programme they are normally planned or known about six months in advance of the proposed start date of the activity.
- Activities, other than immediate activities, requiring a temporary traffic regulation order (not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities
- Activities, other than immediate activities, that have a proposed duration of 11 working days or more.

activity promoter must apply to the Permit Authority within **2 hours of the activity starting**. Information regarding Immediate Activities will be registered and cross referenced / updated within the register when or if a Permit application is subsequently made.

- 5.11** All applications for Permits (Minor or Standard) where the duration is less than 3 day (Minor) or 10 days (Standard) but where a Traffic Regulation Order is required will be classed as Major Activities defined in 6.2 above and subject to the requirements and procedure for Major Activities, though the Permit Authority will take a practical approach regarding the necessity of a Provision Advance Authorisation.
- 6.0** **Permit Application – Information Required**
- 6.1** The following information will be required for applications for Permits.
- 6.2** Contact Person – all Permit applications must include the contact details of person(s) responsible for the activity and who will be able to resolve any problems that may arise during the execution of the activity. They must also include details for out-of-hours contacts.
- 6.3** USRN – Each application must relate to a single street. If a single street has multiple USRN numbers then separate Permit applications will be required for each USRN relating to the activity.
- 6.4** Activity Description – Each application must include a detailed description of the activity. The detail must be sufficient to allow the Permit Authority to assess the impact of the works.
- 6.5** Location – Each application must include an accurate location based on National Grid References (NGR). For small excavations the NGR for the centre of the excavation must be provided. For trench excavations the NGR for each end of the trench(s) must be provided. For works for road purposes the same system will apply; small reinstatements or installation of posts, columns, etc... then the centre of the excavation must be referenced. For surfacing activities the NGR must reference the extents of the works.
- 6.6** Start Date and Duration – Each Permit application must include the proposed start and end dates of the specified activity. Each Permit must also include the times of day when the activity will be carried out. Each Permit must also include details of weekend, bank holiday and night working, where this is required.
- 6.7** Illustration – Major and Standard Permit applications must include an illustration of the proposed works showing:
- The extent of the highway space to be occupied
 - The extent and position of the actual excavation
 - Proposed site layout of traffic (including pedestrian) management
 - Where necessary diversion routes and any anticipated temporary accommodation works should be detailed

The illustration should comprise of plans (to scale), sections and digital photographs and other similarly appropriate materials.

All of the above conditions may be varied depending on the times of day or night, days of the week, or particular stages of the work.

Traffic management refers to signs, signals, road markings, barriers and other measures which are intended to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)

IV. Technique & Methodology

- a. The method of executing works, for example, open cut, no-dig, low-dig (eg insertion or pipe bursting) and trench sharing

V. Consultation & Publicity

- a. The display of information and the details of the activity provided at the actual work site
- b. Consultation and publicity with nearby residents and any critical services, public transport operators and business interests or identified 'traffic generators' (which will typically include, hospitals, major employers, retail destinations).
- c. Notification of progress in relation to specified works

VI. Environmental Issues

- a. Consultation with Environmental officers regarding, for example, noise, the temporary storage and transfer of waste, spoil and apparatus; and the movement of large plant and equipment.
- b. Consultation with Arboriculture Officers regarding trees and planting
- c. Consultation with Urban Design and Heritage Conservation Officers regarding above ground apparatus, surface materials and inspection covers

The Permit Authority will provide contact details relevant to this section.

7.5 Work for Road Purposes Conditions

In addition to any of the above generic and specific conditions, the following may also be applied:

- a. The Highway Authority or contractor acting on behalf of the Highway Authority (carrying out works for road purposes) must consult with any person who has apparatus likely to be affected by the permitted works.
- b. The Highway Authority or contractor acting on behalf of the Highway Authority (carrying out works for road purposes) must take all reasonably practicable steps to comply with the requirements made by apparatus owner which is reasonably necessary for the protection of the apparatus or for securing access to it.

8 Permit Applications

8.1 The minimum Permit application periods and the Permit Authority's response times are shown in 8.10.

8.2 Permit applications will be preferably made electronically, but paper

[12]

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applications will be accepted.

- 8.3 All applications (even when made by paper) must comply with the definitive format and content given in the Technical Specification for EToN.
- 8.4 The description of activities must be in plain English, avoiding abbreviations and industry jargon and preferably use standard descriptions.
- 8.5 Each application shall only refer to activities in one street. If a project covers more than one street, separate Permits will be required for project activities in each specified street that are part of the Permit Scheme and notices will be required for project activities in streets where Permits do not apply. Also Permits will be required where activity on an adjoining or neighbouring non-specified street mean that any registerable activity, as set out in Chapter 9 of the Code of Practice for Permits, takes place on a specified street.

All such related project activities must be cross referenced on each related application and notice.

- 8.6 Single applications for activities in more than one street will not be accepted by the Permit Authority.
- 8.7 Where the NSG/ASD indicates other interested parties then Permit applications should be copied to those parties. Where the Permit Authority issues a Permit on such streets, then the Permit and conditions will be copied to such interested parties.
- 8.8 Activity promoters must carry out necessary consultation as set out in S88, S89 and S93 (as amended) and S90 and S91 of the NRSWA.
- 8.9 **Application and Response Times**
 The Permit Scheme application and response times for dealing with Provisional Advance Authorisation Permit applications and variation applications are set out in 8.10.

- The times in the table 8.10 are measured from the time that the application is received by the Permit Authority.
- A 'response' is a decision to grant or refuse a Permit. Where there are reasons for not granting a Permit on the terms applied for, then the response to the applicant will explain the reason why the Permit will not be granted on those terms.
- 'Days' refer to working days as defined in the regulations

8.10 Permit Application and Response Times

Activity Type	Minimum application periods ahead of start date		Minimum period before Permit expires for application for variation (including extensions)	Response times for issuing a Permit or seeking further information or discussion		Response times for responding to applications for Permit variations
	Provisional Advance Authorisation	Application		Provisional Advance Authorisation	Application	
Major	3 Months	10 days	2 days or 20% of the original duration whichever is the longer	1 Calendar month	5 days	2 days
Standard	N/A	10 days		N/A	5 days	
Minor	N/A	3 days		N/A	2 days	
Immediate	N/A	2 hours after		N/A	2 days	

- 8.11** The Permit Authority has the right to refuse an application for a Permit where it considers that elements of an application are not acceptable (eg. timing, location, description, proposed method, dates or conditions, etc...). The Permit Authority will inform the promoter within the timescale set out in 8.10 and explain the reasons for refusal and the amendments required.
- 8.12** If an activity promoter applies for a Permit for a specified street where a notice has been issued under S58, S58A or S61 NRSVVA (and the activities are not included in the exemptions) the application must include specific details seeking consent to carry out the activities given the additional restrictions. This condition applies to all statutory undertakers and other works promoters, in the interests of parity.
- 8.13** Where promoters are seeking an Optional Permit then the same procedure and timescales for application and response will be applied.
- 8.14** If a non-specified activity changes, such that a Permit becomes required then the activity must stop and a Permit application made. The same timescales for application and response will be applied.
- 9.0 Issuing of Permits**
- 9.1** If all of the details of the application are acceptable then the Permit Authority will issue a Permit within the response times – table 8.10.
- 9.2** The Permit will be issued electronically in the format determined in the Technical Specification for EToN. The details will be placed on the Permit register and copies supplied to the undertaker, Authority and other interested parties that have asked to be informed of activities in a particular street or of activities in relation to a particular Permit application.
- 9.3** A Permit will be issued every time an application is approved by the Permit Authority. Each permit will specify in detail the specific activity permitted. The Permit will include all of the conditions attached to the Permit. Where any constraints were provided in the original application, such as work being undertaken during school holidays, such constraints will be included in the conditions attached to the granting of the Permit.
- 9.4** Each Permit will be given a unique reference number, as determined by the EToN reference conventions and with cross referencing to Permits (and notices) issued for other work as part of the same project.
- 9.5** If remedial works are required after the end date of the Permit, then an application must be made for a new Permit. The application and the Permit must cross reference to the original activity.
- 10.0 Review, Variation and Revocation of Permits and Permit Conditions**
- 10.1** The Permit Authority has powers under Regulation 15 to review, vary and revoke Permits and Permit conditions. There is no obligation upon the Permit Authority to allow activities to continue beyond the permitted period.
- 10.2 Changes to Provisional Advanced Authorization**
A Provisional Advance Authorisation cannot be varied. Where a Provisional

- 12.2 The Permit Authority will charge statutory undertakers for the above actions.
The Permit Scheme does not apply to non-traffic sensitive roads.
- 12.3 Fees will not be charged for -
- I. Works for road purposes, however records will be maintained of all Permits issued and the fees and charges that could have been applied
 - II. Instances where a Permit is deemed to be granted because the Permit Authority has failed to respond to an application within the defined response time
 - III. If a Permit variation or revocation is initiated by the Permit Authority and where the activity promoter is not at fault
 - IV. Where the promoter has applied for an Optional Permit
- 12.4 Fee discounts may be given where -
- I. Two or more Permit applications for works are received within three working days of each other, beginning with the day on which the first Permit is received. As a result of the applicant, or the applicants working together, designing the timing or extent of the programme of the specified works, the subject of the applications, so as to produce the least impact for road users of the specified streets. This will include situations where the Highway Authority promoter and other undertakers are working in collaboration.
- 12.5 Fees will be discounted by
- I. 30% when 13.4.1 applies
 - II. 30% when a utility promoter (not the primary promoter) submits an application, not necessarily within the three working days described in 13.4.1 and is able to work within an area of road that has or will be closed by a Temporary Traffic Regulation Order; with the consent of the promoter who obtained the Order (primary promoter), and where the work can be completed without delaying the 'primary promoter' from reopening on or before the end date of the Order.
- 12.6 Variation fees may be waived where a promoter has identified that varying their application or Permit will allow collaborative working and the Permit Authority agrees that there is a benefit to road users from the proposed variation.
- 12.7 The Permit Authority has the option of waiving or reducing fees at its discretion depending on site circumstances.
- 12.8 The Permit Authority will review the scale of fees annually to ensure that the overall fee income does not exceed the allowable cost. The review will be published and open to public scrutiny.
- 12.9 The current approved scale of fees will be included in the order made by the Secretary of State for the Permit Authority to operate the Permit Scheme.
- 12.10 Monthly invoices will be sent to each promoter referencing all Permits where charges have been applied during the relevant period. A summary will be sent to each promoter two weeks ahead of the invoice being raised. Each

promoter will be required to provide an email contact to receive the information. Any amendments to the charges should be made ahead of the invoice being sent by the Permit Authority. Invoices should be paid within thirty days.

13.0 Sanctions

- 13.1 Appendix B describes the Permit Authority's policy regarding sanctions. This policy statement should be read in conjunction with this section.
- 13.2 It is a criminal offence for an activity promoter or a person contracted to act on its behalf to undertake a specified works activity in a specified street without obtaining a Permit, except in the circumstances in 4.4 above.
- 13.3 It is a criminal offence for an activity promoter or a person contracted to act on its behalf to breach a Permit condition.
- 13.4 If a promoter or person contracted to work on its behalf, undertakes works for which a Permit is required or breaches a Permit condition then the Permit Authority may
 - I. Serve a notice requiring the promoter to take such reasonable steps as detailed in the notice, which may include steps to remove works, to remedy the breach or to minimise or discontinue any obstruction of the street connected with the works.
 - II. If an activity promoter fails to comply with the requirements of such a notice, within the timescales, then the Permit Authority may undertake the steps specified in the notice and reasonable steps appropriate having regard to the breach and recover costs that are reasonably incurred from the promoter.
 - III. Issue a Fixed Penalty Notice (FPN) against the promoter
 - IV. Prosecute the promoter

14.0 Registers

- 14.1 The Permit Authority will maintain a register of Permits in respect of the Permit Scheme, in accordance with regulation 33 and 34, Part 7 of the Regulations.
- 14.2 All information held in the register will be referenced to the USRN and will have Geographic Information System (GIS) interface.
- 14.3 Access to the register will comply with regulation 34, Part 7 of the Regulations.

15.0 Monitoring

- 15.1 The Permit Authority will monitor and evaluate the Permit Scheme to ensure parity of treatment for all activity promoters and that the scheme meets its objectives.
- 15.2 Parity and performance will be measured using a set of Key Performance

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Indicators (KPIs) and the Permit Authority will produce mid-year and end of year data. It is likely that as operation of the scheme develops the Highway Authority and statutory undertakers will agree to the development of additional KPIs to reflect local concerns and conditions.

15.3 Mandatory KPIs

KPI 1 – The number of Permits and Permit variation applications received, the number granted and the number refused.

The figures will be reported for each activity promoter.

Showing:

- total number of Permit applications (excluding withdrawn applications)
- total number of Permit variations
- percentage of applications granted
- percentage of applications refused

KPI 2 – Conditions applied to activities by condition type

The figures will be reported for each activity promoter.

Showing:

- total number of Permits issued, for each category of activities
- condition type applied to each category, as a percentage

Conditions will be standardised under heading types, such as 'Restricted Hours', 'Manual Control of Temporary Signals' or 'Special Signing Requirements'. The indicator will then allow comparison of the application of conditions to activity promoters and activity types; including the percentage where no conditions have been applied. This should provide a key indicator of parity.

Additional KPIs will be selected. The initial selection is detailed in the application document (section 9). Other indicators may be selected and local indicators added in agreement with undertakers. Regular meetings will be held to discuss the scheme performance and to report and develop relevant measures.

15.4 The performance data will be published and will be available to all works undertakers and to any interested party via the Permit Authority's web site.

15.5 The performance data will be presented for discussion at quarterly co-ordination meetings.

16.0 Inspection of Activities

16.1 The Permit Scheme aims to improve the planning and execution of works on specific roads of importance within the administrative area of the Permit Authority. The inspection regime will reflect the relative importance of the road network, the needs of road users and the impact of avoidable congestion on these routes.

16.2 The basic sample inspection process as outlined in the Code of Practice for Inspections will apply, with A, B and C inspections being carried out.

16.3 The basic number of A, B and C inspections will be determined using the

Appendix B

Policy Statement

Sanctions

It is a criminal offence to fail to obtain a Permit for specified activities, where a Permit is required, or to fail to comply with Permit conditions.

The Permit Authority will seek to resolve problems quickly and effectively by giving direction of what is required to achieve compliance to the relevant activity promoter.

If possible situations will be informally resolved. If a quick and informal resolution is not possible then the Permit Authority will serve notice on the activity promoter giving a clear description of the non-compliance and direction as to the required remedial action to be taken by the activity promoter, with timescale for the action.

If the activity promoter does not respond by taking the required action, within the required timescale, then the Permit Authority may carry out the required action and recover all costs reasonably incurred from the activity promoter.

If non-compliance is serious or persistent then the Permit Authority may issue a Fixed Penalty Notice or initiate legal proceedings against the activity promoter.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to the Derby City Council Permit Scheme.

The Derby City Council Permit Scheme is designed to control the carrying out of works in specified streets in Derby by imposing an obligation to obtain a permit from Derby City Council before undertaking the works.

Article 3 gives effect to the permit scheme, which will come into effect on 1st October 2013. The permit scheme referred to in this article is set out in the Schedule.

Article 4 applies Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (which makes provision for the disapplication and modification of enactments in relation to specified works in specified streets) to the specified works and specified streets within the Derby City Council Permit Scheme.

A copy of the Derby City Council Permit Scheme is deposited and can be inspected at the offices of Derby City Council, the Council House, Corporation Street, Derby, DE1 2FS and is available to inspect on the Council's website <http://www.derby.gov.uk>.